



UNITED STATES PATENT AND TRADEMARK OFFICE

72
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/825,380 04/02/2001 Alejandro R. Madrid H0001743(4780) 1659

7590 11/25/2003

Sandra P. Thompson
Riordan & McKinzie
600 Anton Blvd., 18th Floor
Costa Mesa, CA 92626

EXAMINER

KIM, AHSHIK

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/825,380	MADRID ET AL.	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08/18/03 (RCE).
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 June 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in
5 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is
eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)
has been timely paid, the finality of the previous Office action has been withdrawn pursuant to
37 CFR 1.114. Applicant's submission filed on August 18, 2003 has been entered.

10

Drawings

2. This application has been filed with informal drawings, which are acceptable for
examination purposes only. Formal drawings will be required when the application is allowed in
response to this Office Action or when the application is allowed.

15

Preliminary Amendment

3. Receipt is acknowledged of the preliminary amendment filed on August 18, 2003. In the
amendment claims 1 and 9 were amended. Currently, claims 1-17 remain for examination.

Claim Rejections - 35 USC § 102

20 4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

5 (c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, and 10-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Bennett, Jr. et al. (US 6,229,448, “Bennett” hereinafter).

10 Re claim 1, Bennett teaches a smart container assembly 10 (see figure 1, abstract) comprising a hermetically sealed storage cavity 14, a monitoring assembly including a sensor 18, and I/O interface (transmitter module) 24 communicating with either repeater 26 or the receiver 28 (col. 2, lines 66+). As shown in figure 3, the transmitter, installed outside of the sealed storage cavity, is further comprised of A/D converter, a microprocessor 68 which, is
15 programmed to monitor the incoming signal (col. 4, lines 44+). It is also inherent that the tank and other openings for sensors 18 and 22 are sealed that the liquid would not escape through any gaps in connecting areas.

Re claims 2 and 3, the recording assembly is comprised of a first part 22/24 and the second part 18/16 (sensing mechanism) which is electrically connected together and to I/O 24.

20 Re claims 10-14, although Bennett’s embodiment may not teach on transporting containers, such sensing and recording features can be applied to transportable tanks. Also communication between the I/O and receiver can occur any time including before and after transporting or particular event.

Art Unit: 2876

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

5 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett,
10 Jr. et al. (US 6,229,448).

Although Bennett may not explicitly discloses cavities for the recording unit or sensing unit to be received on the container, it is the Examiner's view that shape of the tank (with or without receiving cavities) alone is not a patentably distinct feature. For example, a dip tube structure outside of the container can be a protruding member or the container can have a cavity 15 if the tube member outside the container needs to be protected. One may choose to have a smooth looking container simply for aesthetic reasons. Accordingly, one ordinary skill in the art would contemplate designing the shape of the container or other components parts of the container as he/she prefers.

20 8. Claims 6-9 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett, Jr. etc (US 6,229,448) in view of Besprozvanny et al. (US 5,627,523, previously cited). The teachings of Bennett have been discussed above.

Bennett fails to specifically teach or fairly suggest of an assembly receiving cavity and dip tube for monitoring the measurable parameter of the content.

25 Besprozvanny teaches liquid level sensor device, which can be used in tanks (col. 1, lines 22+). The sensor is formed in the shape disk installed on the dip stick as show in figure 1.

It is the Examiner's view that the sensor 16 of Bennett and the dip stick 1 of Besprozvanny are functionally equivalent devices. Both are used in measuring properties or characteristics of a content, which is carried in hermetically sealed storage container. When the measuring device is complex in nature, one might want to use dip stick since dip-stick may

5 provide improved protection for electronic component parts. If measurement is only for level (or volume) of the content, a relatively inexpensive buoy or simple floating sensor may function just as well.

Re claims 16 and 17, Bennett's embodiment is primarily on storing liquid material (col. 1, lines 14+). However, it is Examiner's view that the container can hold any other material one 10 chooses to carry. Since the embodiment/structure disclosed by Bennett/Besprozvanny is capable of carrying snap-on material and organic polymer without structural modification, the reference still meets these claims.

Conclusion

15 I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Tiernan (US 5,947,372); Duenas (US 6,336,362); Sprea et al. (US 6,490,922); Orlando (US 5,708,424) disclose various hermetically sealed containers.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (703)305-5203. The 20 examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax number directly to the Examiner is (703) 746-4782. The fax phone number for this Group is (703)872-9306.

25 Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

Art Unit: 2876

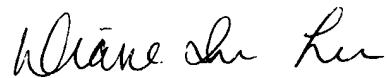
5 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

10 

Ahshik Kim
Patent Examiner
Art Unit 2876

15 November 12, 2003



DIANE I. LEE
PRIMARY EXAMINER